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EXAMINER

MICHALSKI, JUSTIN I

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/700,139
Filing Date: December 15, 2000
Appellant(s): BACHMANN ET AL.

Scott E. Kamholz
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 16 November 2004.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Grouping of Claims*

The rejection of claims 1-4, 6, 8, and 9 stand or fall together because appellant's brief does not include a statement that this grouping of claims does not stand or fall together and reasons in support thereof. See 37 CFR 1.192(c)(7).

(7) Grounds of Rejection to be Reviewed on Appeal

Claims 1, 3, 8, and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by Azima et al. (US Patent 6,003,766).

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Azima.

NEW GROUND(S) OF REJECTION

Claims 2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Azima et al. in view of Azima et al. (US Patent 6,332,029).

(8) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Evidence Relied Upon

The following is a listing of the evidence (e.g., patents, publications, Official Notice, and admitted prior art) relied upon in the rejection of claims under appeal.

6,003,766	Azima et al.	12-1999
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6,332,029	Azima et al.	12-2001
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Webster's New Collegiate Dictionary, G. & C.

Merriam Co., 1977

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1, 3, 8, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Azima et al ("Azima") (US Patent 6,003,766).

Regarding Claims 1, 3, 8, and 9, Azima discloses a panel loudspeaker which is comprised of at least one sound radiating panel (2) having a core layer (22) and at least one cover layer connected with the core layer (21), a periphery which is formed by a frame (1) that surrounds the at least one sound radiating panel with a later gap (between 20 and 20 of fig. 2a), and at least one connecting element (3) that connects the at least one sound radiating panel with the periphery (20) wherein that at least one connecting element is under mechanical tension when connected with the periphery (col. 4, lines 24 to 36), and wherein regions of the at least one cover layer that are connected with the core layer are also under mechanical tension (inherent that wherein joints 20 are under tension that cover layer 21 is also under tension).

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Azima.

Regarding claim 6, the applicant has claimed that the sound radiating panel is a bass panel adapted to reproduce low-frequency sound. Even though Azima does not explicitly disclose reproducing low frequency sound, it would have been obvious to set the panel speaker to reproduce low frequency as claimed because it would have been a designer's choice to set a system which reproduce a certain range of frequency in an audio signals.

NEW GROUND(S) OF REJECTION

Claims 2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Azima as applied to claim 1 above in view of Azima ("Azima '029").

Regarding Claim 2, Azima discloses a loudspeaker as stated apropos of claim 1 including the at least one connecting element is formed by the at least one cover layer (Azima discloses that skins, i.e. cover layer, are made of plastics, Col. 3, lines 22-28, and further discloses connecting element 3 is made of plastics, Col. 3, lines 18-19). Azima does not disclose the cover layers of the respective sound radiating panel extends to the periphery. Azima '029 discloses a loudspeaker (Fig. 28) with a panel (22), periphery (101), and outer skin connecting core and extending to the periphery (101), Col. 38, lines 57-67). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to extend the cover layer to the periphery to produce an audio output of a visual display unit as taught by Azima '029.

Regarding Claim 4, Azima discloses a loudspeaker as stated apropos of claim 1 above but does not disclose wherein the periphery is formed by at least one additional panel. Azima '029 discloses a panel loudspeaker (Fig. 18, references 3, 4, 9, and 82) where the periphery (82) is formed by at least one additional panel (2). Azima '029 discloses that the two panels are used to drive different frequency outputs so the loudspeaker can encompass the whole acoustic spectrum (Col. 34, lines 51-64). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made for the periphery is formed by at least one additional panel to produce different

frequency range outputs and encompass the whole acoustic spectrum as taught by Azima '029.

(10) Response to Argument

On page 4, line 25 through page 6, line 3, the appellants have argued that the office has adopted an unreasonably broad interpretation of the term "tension". The appellants' argument is not persuasive as "tension" is defined in Webster's New Collegiate Dictionary (G. & C. Merriam Co., 1977) as: "either of two balancing forces causing or tending to cause extension". As previously stated on page 3, lines 12-14 of the Final Rejection, as the diaphragm (panel) vibrates, it is inherent that the suspension 3 is under mechanical tension. That is, as the panel vibrates, it will inherently produce a force causing or tending to cause extension in at least a part of skin 21, core 22 and suspension 3. Note the term "mechanical tension" is broad as the claim does not put a limitation on what means or conditions produces such a tension.

For the above reasons, it is believed that the rejections should be sustained.

This examiner's answer contains a new ground of rejection set forth in section (10) above. Accordingly, appellant must within **TWO MONTHS** from the date of this answer exercise one of the following two options to avoid *sua sponte* **dismissal of the appeal** as to the claims subject to the new ground of rejection:

(1) **Reopen prosecution.** Request that prosecution be reopened before the primary examiner by filing a reply under 37 CFR 1.111 with or without amendment, affidavit or other evidence. Any amendment, affidavit or other evidence must be relevant to the new grounds of rejection. A request that complies with 37 CFR 41.39(b)(1) will be entered and considered. Any request that prosecution be reopened will be treated as a request to withdraw the appeal.

(2) **Maintain appeal.** Request that the appeal be maintained by filing a reply brief as set forth in 37 CFR 41.41. Such a reply brief must address each new ground of rejection as set forth in 37 CFR 41.37(c)(1)(vii) and should be in compliance with the other requirements of 37 CFR 41.37(c). If a reply brief filed pursuant to 37 CFR 41.39(b)(2) is accompanied by any amendment, affidavit or other evidence, it shall be treated as a request that prosecution be reopened before the primary examiner under 37 CFR 41.39(b)(1).

Extensions of time under 37 CFR 1.136(a) are not applicable to the TWO MONTH time period set forth above. See 37 CFR 1.136(b) for extensions of time to reply for patent applications and 37 CFR 1.550(c) for extensions of time to reply for ex parte reexamination proceedings.

Respectfully submitted,



Justin Michalski

A Technology Center Director or designee must personally approve the new ground(s) of rejection set forth in section (9) above by signing below:

Conferees:



Sinh Tran

SINH TRAN

SUPERVISORY PATENT EXAMINER



RUI TSANG

**SUPERVISORY PATENT EXAMINER
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Webster's
New
Collegiate
Dictionary

A Merriam-Webster®

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